

March 7, 2016

Re: HB 5548

Members of the Connecticut Public Safety and Security Committee:

I am writing on behalf of the modular home building industry and in regards to House Bill 5548, An Act Repealing Restrictions on the Transport of Mobile and Modular Homes. We estimate that there are 17 modular home builders in Connecticut that are impacted by the current restrictive regulations. Given that our association represents only the modular home industry (homes built to the International Residential Code) and not the manufactured (a.k.a. mobile) home industry, we have reached out to our peers representing those interests to share their concerns as well.

By some accounts, Connecticut's transportation requirements of modular shipments are adding thousands of dollars to the cost of an average-sized home for the state's citizens. Additionally, Connecticut's requirements are out of alignment with neighboring states, causing significant hardship and expense to homes being delivered to and through the state.

Our organization has been working with the State Department of Transportation (DOT) in recent months to highlight these "outlier" requirements and to seek some relief from them. For example, oversized shipments of modular home components (units that are between 14'1" up to 16') can only be transported in Connecticut at night, from Sunday through Wednesday. Many of these shipments come from neighboring states, such as New York and Pennsylvania, where oversized shipments are prohibited from travelling at night.

One of our biggest challenges is the permit process and utilizing the allotted time slots on Sunday night for oversize loads, as New York and surrounding states prohibit travel beyond Friday afternoon. Practically speaking, this means that shipments must stop at the NY/CT border on Friday at noon, and cannot proceed to or through the state until midnight on Sunday, a 36-hour minimum stop. Complicating matters further is the state's refusal to allow the industry to utilize the rest area in Danbury just 1.3 miles across the border, forcing the trucks to stop along the highway in New York until these nighttime slots are available. In summary, the current state regulations are forcing the industry into unsafe practices and/or to violate either New York or Connecticut laws.

These are not new issues, as Connecticut has a history of restrictive transportation requirements. In 1991, the Mid Atlantic Building Systems Council filed a lawsuit against the state claiming restraint of interstate commerce. The claim was dismissed by the lower court in Connecticut, but reversed on appeal by the Federal Court of Appeals (see Mid-Atl Bldg Sys Council v Frankel, 17 F 3d 50, 52-53 2d Cir 1994). The court ruled that the state could not set overly restrictive requirements that prohibit interstate commerce. At the time, the issue was vehicle length. Today it is the width and hours of operation, but the argument is the same.

Partly as a result of this lawsuit, the state implemented a “pilot program” for the industry about a decade ago. Under this program, up to five oversize modular and manufactured home shipments were to be transported during the night from Sunday through Wednesday. This program, while allowing for shipment of oversize modules, created additional hardships due to the conflict with surrounding state requirements. Throughout this whole period, the industry worked with one point of contact within the DOT regarding oversize permits. That state employee recently retired and now a great deal of confusion and inconsistencies are surfacing between the guidelines and the enforcement practices. We feel this is the opportune time to address this issue.

We are committed to continue our work with the DOT and the State Police on this matter. However, the DOT feels that its “hands are tied” regarding our concerns. We are putting our support behind this effort to provide legislative relief for the industry as a preferred solution, rather than seeking legal remedies. However, simply repealing sections 14-262b and 14-262d may further hurt the industry as these sections address how we are to ship oversize units. Without these sections, we may be prohibited from shipping oversized units altogether.

After 10 years under this pilot program, it is our position that there is no evidence to support the stance that an oversize modular home is any more or less safe than an oversize shipment (such as pools or boats) from any other industry. We therefore feel that these targeted restrictions on our industry should be lifted and our industry be treated equally under the law. We are also offering to work with policy makers and the DOT on specific language to ensure equal application of the law. On behalf of the modular home industry, I want to thank you for taking up this cause.

Sincerely,



Tom Hardiman
Executive Director
Modular Home Builders Association
www.modularhome.org
1-888-811-3288 x 158